

JUL 10 1997

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of)	
)	
Petition for Expedited Rulemaking of)	RM-9101
LCI International Telecom. Corp. and)	
Competitive Telecommunications Association)	
to Establish Technical Standards for)	
Operations Support Systems)	

COMMENTS OF ALIANT COMMUNICATIONS CO.

Introduction

Aliant Communications Co. ("Aliant"), by its attorneys, hereby files these comments on the Commission's recent Public Notice seeking public comment on a Petition for Expedited Rulemaking ("Petition") seeking to establish performance standards for Operations Support Systems ("OSS").¹ In that Petition, LCI International Telecom Corp. ("LCI") and the Competitive Telecommunications Association ("CompTel") (jointly referred to herein as "Petitioners") have asked the Commission to establish a rulemaking proceeding concerning the requirements governing operations support systems ("OSS") that the Commission established in the *Local Competition First Report and Order*.²

¹ Public Notice, DA No. 97-1211, RM-9101 (released June 10, 1997).

² Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, CC Docket No. 96-98. 11 FCC Rcd 15499 (1996) (*Local Competition First Report and Order*), motion for stay denied. 11 FCC Rcd 11754 (1996), *Order on Reconsideration*, 11 FCC Rcd 13042 (1996), *Second Order on Reconsideration*, 11 FCC Rcd 19738 (1996), *further recon. pending, appeal pending sub nom. Iowa Util Bd. v. FCC and consolidated cases*, No. 96-3321 *et al.*, partial stay granted pending review, 109 F.3d 418 (8th Cir. 1996), order lifting stay in part (8th Cir. Nov. 1, 1996), *motion to vacate stay denied*, 117 S. Ct. 429 (1996).

Aliant opposes the adoption of national performance standards for OSS, as requested by Petitioners.³ Aliant believes that Congress, in mandating in the Telecommunications Act of 1996 (“Act”)⁴ that new entrants and incumbents engage in negotiations, intended for issues such as OSS performance standards to be handled on a case-by-case basis. In addition, there is no evidence that Congress had any intention to require the substantial expenditure of resources that standardization of OSS would cause for small and mid-sized companies. However, Aliant submits that if the Commission proceeds to adopt any OSS standards, they should be considered as requirements of Section 251(c) of the Act, which the State Commissioners can waive pursuant to Section 251(f)(2) of the Act.

The Act Mandates Negotiated OSS Solutions

H.R. 1555⁵ and S. 652,⁶ the two bills which resulted in the final version of the Act, contained different approaches to interconnection. H.R. 1555 contained Section 244, which required local exchange carriers (“LECs”) to prepare and file statements of terms and conditions that such carriers generally offer to comply with the interconnection requirements contained in Section 242 of that bill. On the other hand, S. 652 required incumbent LECs to negotiate “. . . the particular terms and conditions of agreements. . . .”⁷ The conference committee adopted the Senate approach of negotiation instead of the House approach of a standardized tariff filing. The only logical conclusion is that Congress intended all matters concerning interconnection, of which OSS is a part, to be settled on a case-by-case basis through negotiation, instead of applying a standardized “one size fits all” approach.

³ LCI/CompTel Petition for Expedited Rulemaking dated May 30, 1997.

⁴ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat 56.

⁵ House Report No. 204 Part 1, 104th Congress 1st Session (1995).

⁶ Senate Report No. 23, 104th Congress 1st Session (1995).

⁷ S. 652 at Section 251(c)(1).

Standardization Would Severely Impact Small and Mid-Sized LECs

Petitioners suggest that standardization of OSS is desirable, because many of the potential competitors to the incumbent LECs for local service, “are small or otherwise face significant resource constraints.”⁸ In fact, LCI claims that while it has more resources than many companies, “achieving OSS functionality is a substantial effort in the best of circumstances, but a daunting one if LCI must undertake a separate effort, from scratch, with each RBOC, GTE and each other company in whose market LCI would like to compete for local service and access.”⁹ At the same time, LCI admits that the incumbent LECs with which it wishes to compete include, “seven RBOCs, GTE and **other independent companies, including many smaller, rural firms.**”¹⁰ LCI claims it will be a daunting effort for it to interface with OSS systems of many incumbent LECs, yet, it has more resources than many of the incumbent LECs from which it is seeking standardized OSS. LCI generated revenues of \$1.1 billion in 1996, or over four times as much revenue as Aliant generated over the same period (\$264 million).

Aliant submits that this is the type of situation that Congress hoped to accommodate when it included Section 251(f)(2) in the Act. In explaining the application of Section 251(f)(2), the Senate Committee on Commerce, Science, and Transportation stated, “The Committee intends that the FCC or a State shall, . . . use this authority to provide a level playing field, particularly when a company or carrier to which this subsection applies faces competition from a telecommunications carrier that is a large global or nationwide entity that has financial or technological resources that are significantly greater than the resources of the company or carrier.”¹¹

LCI has reported that it serves customers through leased and owned facilities spanning the U.S. and more than 200 countries.¹² In addition, it has eleven switches in metropolitan areas

⁸ Petition at 21.

⁹ *Id.*

¹⁰ *Id.* (emphasis added).

¹¹ Senate Report No. 23, 104th Congress 1st Session (1995), at 22.

¹² LCI International, Inc., Form 10-K, for the fiscal year ended December 31, 1996, at 3.

that account for 95 percent of the U.S. call volume.¹³ Clearly, it would qualify as a large global or nationwide entity with financial resources that are significantly greater than many of the small and mid-size incumbent LECs with which it wishes to compete. LCI may feel it is disadvantaged relative to AT&T and MCI, but this is not a clear and compelling reason to impose onerous requirements on small and mid-size incumbent LECs that do not have a nationwide presence or the financial resources of LCI simply so that it can compete with its larger rivals.

Economic Considerations Will Cause Standardization Over Time

Aliant believes that incumbent LECs should not be forced to comply with OSS standards set on an artificial timeline. It is reasonable to assume that as industry standards emerge and the use of those standards imply cost savings for incumbent LECs, incumbent LECs will adopt the standards on their own, without mandates to do so. It would be foolish for an incumbent LEC to maintain an antiquated system to thwart competitors as LCI has alleged is the case, when adoption of a new system could yield cost savings for the incumbent. There is no reason for the FCC to adopt OSS standards since economic forces will drive cost-efficient standardization.

Standards May Be Waived Under Section 251(f)(2)

While Aliant does not believe standards for OSS are warranted for the reasons cited previously, especially for small and mid-size companies, it does contend that if any standards are set for OSS, these standards should be eligible for a waiver under the application of Section 251(f)(2). Section 251(f)(2) of the Act allows LECs with fewer than two percent of the nation's subscriber lines to petition a state commission for a suspension or modification of the application of a requirement or requirements of Section 251(b) or (c). Since the FCC found that access to OSS constituted part of the incumbent LECs obligations under Section 251(c)(3),¹⁴ it logically follows that any standards set for OSS would constitute a duty under the same section. Aliant

¹³ *Id.*

¹⁴ Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, CC Docket No. 96-98, 11 FCC Rcd 15499 (1996).

requests recognition of the fact that OSS standards would be subject to a waiver under Section 251(f)(2) in any order that may be issued on this petition.

Conclusion

The national OSS standards the Petitioners request are not authorized by the Act. Congress intended that negotiations, not a mandated "one size fits all" approach, should govern the handling of interconnection.

The imposition of OSS standards does not make sense given the size and resources of small and mid-size incumbent LECs relative to some of their potential competitors, including LCI and other CompTel members. Congress intended for small and mid-size LECs to be treated separately and to be required to implement changes that are cost effective and which will benefit competition. Over time, all incumbent LECs will adopt OSS standards when they will result in cost savings. However, if the Commission chooses to impose some OSS standards, such standards should be eligible for a waiver under Section 251(f)(2).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "A. Mazer", with a long horizontal flourish extending to the right.

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